

**EPA General Conformity Comments – NPL Preliminary Draft EIS**

Thank you for the opportunity to provide input on the preliminary Chapters 2 and 3 of the Draft Environmental Impact Statement (EIS) for the Normally Pressurized Lance (NPL) Natural Gas Development Project. We offer the following comments regarding the general conformity discussion presented in the preliminary Draft EIS.

**1. General Conformity Exemptions that apply to Stationary Sources**

**Referred to BLM**

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EPA wishes to clarify that pursuant to federal regulations, this exemption only applies to stationary emission sources that are permitted by either EPA or under a federally approved state permitting program. For reference, see 40 CFR 93.153(d)(1)).

We note in the specific case of Wyoming, EPA’s general conformity regulation allows that the State’s federally-approved general conformity provisions are used in-lieu of the federal requirements found in 40 CFR 93, Subpart B:

“When EPA approves a State's or Tribe's conformity provisions (or a portion thereof) in a revision to an applicable implementation plan, a conformity evaluation is governed by the approved (or approved portion of the) State or Tribe's criteria and procedures.” (Ref. 40 CFR 93.151.)

The current federally-approved version (see 69 FR 44965, July 28, 2004) of Wyoming’s general conformity requirements are contained in Wyoming Air Quality Standards Regulation (WAQSR) Chapter 8, Section 3. Chapter 8, Section 3 contains the following similar exemption for stationary sources as specified in 40 CFR 93.153(d)(1), except that it only applies to “major” sources:

“Section 3(c)(iv)(A): Notwithstanding the other requirements of this section, a conformity determination is not required for the following Federal actions (or portion thereof):

(A) The portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (§173 of the CAA) or the prevention of significant deterioration (PSD) program (title I, part C of the CAA).”

With regard to the above, on December 21, 2012, Wyoming submitted a SIP revision that contained numerous revisions and updates to its general conformity requirements in Chapter 8, Section 3. One update involved Chapter 8, Section 3(c)(iv)(A) which added *minor* stationary sources to its exemption: “The portion of an action that includes major **and minor** new or modified stationary sources ...” EPA is currently reviewing this SIP revision for approval;

however, until such time as EPA is able to publish a final effective rule that is able to approve the State's revisions to Chapter 8, Section 3(c)(iv)(A), this permitting exemption for *minor* stationary sources is not available for use in a general conformity determination.

We note that Wyoming's Chapter 8, Section 3, does not define a stationary source (in either the prior EPA-approved version or the December 21, 2012 SIP revisions). For permitting purposes, however, stationary sources are defined as buildings, structures, facilities or installations by both EPA and the State (see 40 CFR 51.165 for NSR and 40 CFR 52.21 for PSD and similar language in Wyoming's WAQSR Chapter 6 permitting requirements).

With regard to drill rig engines, EPA was unable to find a specific definition for *stationary engines* or *non-road engines* in either of Wyoming's WAQSR Chapter 6 or WAQSR Chapter 8. We are, therefore, relying on EPA's definitions. Engines which are considered as stationary sources are defined in 40 CFR 60.4219. With respect to the engines associated with drill rigs, they do not meet the above definitions; they are defined as non-road engines as stated in 40 CFR 1068.30. The exception to the non-road engine definition in 40 CFR 1068.30 is that non-road engines which remain at a single location for more than one year then are then not considered non-road engines (see 40 CFR 1068.30(2)). We have attached our June 2, 2009 letter which discusses EPA's interpretation of these definitions and how they apply to drill rig engines<sup>1</sup>.

In view of the above statements, EPA notes that if a drill rig does not remain at a single location for more than one year it does not meet either the Federal or Wyoming's regulatory definitions of a stationary source.

#### **Ex. 5 - Deliberative Process**

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However, if the drill rig does remain at a single location for more than one year and is permitted as a major stationary source by the State, it would then qualify for the State's stationary source general conformity determination exemption (if the drill rig was instead considered a minor stationary source, the above statement would only apply if EPA is able to publish a final effective rule that is able to approve the State's revisions to Chapter 8, Section 3(c)(iv)(A)).

The State's general conformity requirements (see WASQR Chapter 8, Section 3) contain other potential exemptions and methodologies to address the general conformity requirements that BLM may wish to evaluate and consider for emissions from drill rigs. Please let us know if you would like to discuss them further.

## **2. General Conformity Review Period**

# **Ex. 5 - Deliberative Process**

<sup>1</sup> See attached letter from EPA to Wild Earth Guardians, June 2, 2009.

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## *3. Conformity Demonstration*

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## *4. Minor Edits and Suggestions*

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